## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UN	IITED STATES OF AMERICA,	) 0.44CB264	
	Plaintiff,	) 8:11CR361 )	
	vs.	) DETENTION ORDER	
TA	MMY MENDOZA,	) )	
	Defendant.	<i>)</i> )	
A.	After waiving a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act on October 31, 2011, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).		
B.	<ul> <li>Statement Of Reasons For The Detention         The Court orders the defendant's detention because it finds:         X             By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.             X             By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community.         </li> </ul>		
C.	The Court's findings are based on the evidence which was presented in court and contained in the Pretrial Services Report, and includes the following:  X (1) Nature and circumstances of the offense charged:  X (a) The crime: a conspiracy to distribute and possess with intent to distribute methamphetamine (Count I) in violation of 21 U.S.C. § 846 and the distribution of methamphetamine (Count IV) in violation of 21 U.S.C. § 841(a)(1) each carry a minimum sentence of five years imprisonment and a maximum of forty years imprisonment; the distribution of methamphetamine (Counts II and III) in violation of 21 U.S.C. § 841(a)(1) each carry a maximum sentence of twenty years imprisonment.  (b) The offense is a crime of violence.  (c) The offense involves a narcotic drug.  (d) The offense involves a large amount of controlled substances, to wit:		
	may affect wheth The defendant h X The defendant h X The defendant h The defendant is The defendant of ties. Past conduct of t X The defendant h The defendant h	of the defendant including:  ppears to have a mental condition which her the defendant will appear. as no family ties in the area. as no steady employment. as no substantial financial resources. not a long time resident of the community. loes not have any significant community	

e defendant has a prior record of failure to appear at		
urt proceedings.		
(b) At the time of the current arrest, the defendant was on:		
obation		
role		
elease pending trial, sentence, appeal or completion of		
ntence.		
ors:		
e defendant is an illegal alien and is subject to		
portation.		
e defendant is a legal alien and will be subject to		
portation if convicted.		
e Bureau of Immigration and Custom Enforcement		
ICE) has placed a detainer with the U.S. Marshal.		
her: outstanding arrest warrants in Douglas County.		
X (4) The nature and seriousness of the danger posed by the defendant's		
release are as follows: The nature of the charges in the Indictment and the		
ance abuse and criminal history.		
X (5) Rebuttable Presumptions		
In determining that the defendant should be detained, the Court also relied		
on the following rebuttable presumption(s) contained in 18 U.S.C. §		
3142(e) which the Court finds the defendant has not rebutted:		
ondition or combination of conditions will reasonably		
appearance of the defendant as required and the safety		
r person and the community because the Court finds that		
nvolves:		
A crime of violence; or		
An offense for which the maximum penalty is life		
imprisonment or death; or		
A controlled substance violation which has a maximum		
penalty of 10 years or more; or		
A felony after the defendant had been convicted of two		
or more prior offenses described in (1) through (3)		
above, and the defendant has a prior conviction for		
one of the crimes mentioned in (1) through (3) above		
which is less than five years old and which was		
committed while the defendant was on pretrial release.		
ondition or combination of conditions will reasonably		
appearance of the defendant as required and the safety		
munity because the Court finds that there is probable		
elieve:		
That the defendant has committed a controlled		
substance violation which has a maximum penalty of		
10 years or more.		
That the defendant has committed an offense under 18		
U.S.C. § 924(c) (uses or carries a firearm during and		
in relation to any crime of violence, including a crime of		
violence, which provides for an enhanced punishment		
if committed by the use of a deadly or dangerous		
weapon or device).		

## D. Additional Directives

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

- The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
- 2. The defendant be afforded reasonable opportunity for private consultation with counsel:
- That, on order of a court of the United States, or on request of an attorney
  for the government, the person in charge of the corrections facility in which
  the defendant is confined deliver the defendant to a United States Marshal
  for the purpose of an appearance in connection with a court proceeding;
  and
- 4. Pretrial Services shall obtain a dual diagnosis evaluation (substance abuse and mental health) and provide a copy of the report to the court and counsel. Thereafter, any counsel may file a motion to review the order of detention.

DATED: October 31, 2011. BY THE COURT:

s/Thomas D. Thalken

United States Magistrate Judge